

**Translation**

**PATENT COOPERATION TREATY**

**PCT**

**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**  
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

|  |   |   |
|--|---|---|
| Applicant's or agent's file reference<br><b>2003P00855WO</b>                 | FOR FURTHER ACTION<br>See Form PCT/IPEA/416                     |   |
| International application No.<br><b>PCT/EP2004/006256</b>                    | International filing date (day/month/year)<br><b>09.06.2004</b> | Priority date (day/month/year)<br><b>11.06.2003</b> |
| International Patent Classification (IPC) or national classification and IPC |   |   |
| Applicant<br><b>BSH BOSCH UND SIEMENS HAUSGERÄTE GMBH</b>                    |   |   |

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

- a. ☒ (sent to the applicant and to the International Bureau) a total of 2 sheets, as follows:
- ☒ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
- ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s))

\_\_\_\_\_ , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

- ☒ Box No. I Basis of the report
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☒ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

|   |                                   |
|---|-----------------------------------|
| Date of submission of the demand        | Date of completion of this report |
| Name and mailing address of the IPEA/EP | Authorized officer                |
| Facsimile No.                           | Telephone No.                     |

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/006256

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language \_\_\_\_\_ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-6 \_\_\_\_\_ as originally filed/furnished
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the claims:
- nos. \_\_\_\_\_ as originally filed/furnished
- nos.\* \_\_\_\_\_ as amended (together with any statement) under Article 19
- nos.\* 1-11 received by this Authority on 02.05.2005 with letter of 26.04.2005
- nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the drawings:
- sheets 1/2, 2/2 \_\_\_\_\_ as originally filed/furnished
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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| Box No. V  | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |                    |     |
|--|---|--------------------|-----|
| 1. Statement   |   |                    |     |
| Novelty (N)  | Claims  | 2-5, 8             | YES |
|  | Claims  | 1, 6, 7, 9, 10, 11 | NO  |
| Inventive step (IS)  | Claims  | 4, 8               | YES |
|  | Claims  | 1-3, 5-7, 9-11     | NO  |
| Industrial applicability (IA)  | Claims  | 1-11               | YES |
|  | Claims  |                    | NO  |
| 2. Citations and explanations (Rule 70.7)  |   |                    |     |
| Reference is made to the following documents:  |   |                    |     |
| D1: US-A-2 549 547 (ALLEN TRASK), 17 April 1951 (1951-04-17)   |   |                    |     |
| D2: US-A-2 416 354 (SHOEMAKER MALCOLM G), 25 February 1947<br>(1947-02-25)   |   |                    |     |
| D3: DE 101 39 834 A (BSH BOSCH SIEMENS HAUSGERAETE),<br>27 February 2003 (2003-02-27)  |   |                    |     |
| D4: US-A-6 006 530 (CHO SUNG-HO ET AL), 28 December 1999<br>(1999-12-28)   |   |                    |     |
| D5: US-A-2 285 946 (MILTON KALISCHER), 9 June 1942<br>(1942-06-09)   |   |                    |     |
| D6: US-A-2 442 188 (BAUMAN JOHN J), 25 May 1948 (1948-05-25)   |   |                    |     |
| 1. <u>Independent claim 1</u>  |   |                    |     |
| The application fails to meet the requirements of PCT Article 33(1) because the subject matter of claim 1 is not novel (PCT Article 33(2)).  |   |                    |     |
| Document D1 discloses (the references in parentheses are to D1; see figures 3 to 7) a no-frost refrigerator with at least one storage compartment (as in figure 3), an evaporator (45) which is alternately on and off (column 7, lines 3 to 10, |   |                    |     |

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Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

"on/off condensing unit") and is mounted in a compartment (36) that is separate from the storage compartment, and a fan (46) for circulating air between the storage compartment and the compartment (36) containing the evaporator (45). The no-frost refrigerator comprises a control circuit (57, 61) which, when the evaporator (45) is switched on, makes the average speed of the fan (46) variable according to a measured air humidity level (column 6, lines 63 to 69 - "... a rise in humidity above the settings of humidostat 57, causes humidostat 57 to make the upward contact shown to energize relay coil 56 through wire 112. Relay 56 then closes to establish a circuit through variable transformer 58 to fan motor 47 to run it at a reduced speed in accordance with the setting of the transformer").

2. Independent claim 10

The argumentation presented in point 1 above also applies to independent claim 10. The subject matter of claim 10 therefore lacks novelty (PCT Article 33(2)).

Document D1 discloses (the references in parentheses are to D1; see figures 3 to 7) a method for operating a no-frost refrigerator as defined in claim 1, involving the following steps:

- (a) estimating a humidity level in the storage compartment (by means of humidostat 57);
- (b) choosing a circulation speed for the fan (46) according to the estimated humidity level (see D1, column 6, lines 63 to 69);
- (c) running the fan (46) at the chosen circulation speed.

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Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement3. Dependent claims 2, 3, 5-7, 9 and 11

Dependent claims 2, 3, 5 to 7, 9 and 11 do not contain any features that meet the PCT requirements in respect of novelty or inventive step when combined with the features of any of the back-referenced claims (see documents D1 to D6 and the passages cited in the international search report).

4. Dependent claims 4 and 8

The combinations of features contained in dependent claims 4 and 8 are neither known from nor suggested by the prior art.

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## Box No. VI Certain documents cited

## 1. Certain published documents (Rule 70.10)

| Application No.<br>Patent No. | Publication date<br>(day/month/year) | Filing date<br>(day/month/year) | Priority date (valid claim)<br>(day/month/year) |
|-------------------------------|--------------------------------------|---------------------------------|---|
| WO 03/054462                  | 03.07.2003                           | 05.12.2002                      | 13.12.2001                                      |

## 2. Non-written disclosures (Rule 70.9)

| Kind of non-written disclosure | Date of non-written disclosure<br>(day/month/year) | Date of written disclosure<br>referring to non-written disclosure<br>(day/month/year) |
|--------------------------------|--|---|
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